IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.04.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Appeal No.2094 of 2001

Abdul Khabeer ... Appellant

vs.

1. J.A. Institute of Engineering
and Technology,
No.42/1 and 2, Srinivasa Nagar,
Second Street, Koyambedu
Chennai-600 107.

2. The Controller of Examinations (i/c)
University of Madras,
University Buildings,
Chepauk, Chennai-5.

3. The Director,
Department of Technical Education,
Chennai-600 025.

4. A.Veerabhadra Rao
Educational Consultant,
Gudla Valleru, Near College Bus Stop,
Krishna District, A.P.
(4th respondent given up) ... Respondents

Appeal under Clause 15 of the Letters Patent against the order dated 23.3.2001 made by the learned single Judge (DMJ) in W.P. No.15904 of 2000.

For Appellant : Mr.K.V.Ananthakrishnan
For R-2 : Mr.A.V.Ilango
For R-3 : Mr.D.Krishnakumar,
Special Government Pleader.

J U D G M E N T

The above Writ Appeal has been filed against the order of the

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learned single Judge, dated 23.3.2001, passed in W.P. No.15904 of 2000, in and by which, the learned Judge rejected the request of the Writ Petitioner to complete the course in B.E. Electronics and Communication with the first respondent College or with any other Institution approved by the Director of Technical Education; and refused to permit him to appear for VI, VII and VIII semester Examinations of the said course.

2. For convenience, we shall refer the parties as arrayed in the Writ Petition.

3. According to the petitioner, he is a permanent resident of Andhra Pradesh and an Engineering Diploma holder in Electronics and Communication from the State Board of Technical Education and Training, Andhra Pradesh. On the assurance given by the fourth respondent, the petitioner was admitted in the 2nd year B.E. (Electronics and Communications) course with the first respondent-Institute. It is a three year course i.e., from 1998 to 2001. He joined the said Course in the first respondent-Institute during the academic year 1998-99, that is, straight away in the 2nd year. He was permitted to write 3rd and 4th Semester examinations simultaneously during March, 1999. While so, the second respondent, by letter dated 10.9.1999, informed him that his admission with Registration No.8791596 with the first respondent has not been approved by the third respondent and that his application for the examination was treated as cancelled. Though he was permitted to write the 5th semester examination during October, 1999, subsequently, the third respondent, by letter dated 13.12.1999, deleted the 1st respondent from the recognized Institutions and redistributed the students studying therein to other recognised Institutions. Subsequently, by orders of interim stay granted by this Court, the petitioner was retained in the Institute. He was permitted to attend the 6th semester practical examination but not allowed to write theory examinations. When the College was re-opened during June, 2000, the first respondent did not allow him to attend the final year classes. Though the first respondent has received tuition fee and other fees, they did not allow the petitioner to continue the studies. In such circumstances, having no other remedy, he filed W.P. No.15904 of 2000.

4. By the impugned order dated 23.3.2001, the learned single Judge, after finding that the admission of the petitioner by the first respondent-Institute has not been approved by the third respondent, rejected the request of the petitioner and dismissed the Writ Petition, hence, the present Writ Appeal.

5. Heard Mr.K.V.Ananthakrishnan, learned counsel for the appellant and Mr.D.Krishnakumar, learned Special Govt. Pleader as well as Mr.Ilango appearing for Madras University.

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6. Mr.K.V.Ananthakrishnan, Learned counsel for the petitioner/appellant, vehemently contended that inasmuch as the first respondent college was not approved by the third respondent, respondents-2 and 3 ought to have permitted the petitioner to continue his studies in any other approved college. He also contended that, in any event, the petitioner is entitled to refund of fees paid to the first respondent for which necessary direction may be issued.

7. On the other hand, Mr.D.Krishnakumar, learned Special Government Pleader, would submit that inasmuch as the petitioner failed to produce the required mark sheets for verification to show that he is a Diploma holder, the respondents rightly declined to accord approval and this has been communicated to the Principal of the first respondent/Institute. According to him, the 3rd respondent is in no way concerned with the fault of the first respondent.

8. It is seen that the petitioner herein is a B.E. Degree student of the 1st respondent/Institute. He is a lateral entry candidate having joined in 1998-99 directly in the 2nd year (III semester) of the said course since he already holds a Diploma in Electronics and Communication. It is not in dispute that admission of all the candidates to the Engineering Courses in Tamil Nadu has to be approved by the third respondent viz., Director of Technical Education, Chennai. In the counter affidavit filed by the third respondent/Director of Technical Education, it is specifically stated that the petitioner, being a Diploma holder, was admitted under the Management Quota in J.A. Institute of Technology (R-1/Institute), Chennai, to II year B.E. Degree course in ECE under Lateral Entry Scheme during the academic year 1998-99. The Principal of the first respondent/Institute enclosed the list of 5 students admitted including the petitioner in the II year for approval of the admission. Since the petitioner has not submitted all the diploma mark sheets for verification, approval was not accorded for his admission by the Directorate of Technical Education. In the letter dated 01.03.1999, it has been communicated to the Principal that the admission of the petitioner has not been approved. It is the specific case of the third respondent that even after that, the petitioner has not submitted the required mark sheets for verification. It is further seen that as approval of the petitioner's admission was not accorded by the Director of Technical Education, the University of Madras also cancelled the examination application submitted by the petitioner and did not permit him to appear for the subsequent University examinations.

9. It is clear from the materials placed that in the petitioner's case, approval of admission was not accorded as the required diploma mark sheets were not submitted for verification. This has been communicated to the Principal of the first respondent/Institute by letter dated 01.03.1999, stating the reasons. The learned single Judge, after duly considering all these aspects, ultimately, dismissed the Writ Petition. Merely because the first respondent/Institute permitted the petitioner to

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write the subsequent semester examinations, in the absence of approval for the petitioner's admission in the first respondent/Institute by the third respondent, the request of the petitioner cannot be acceded to. As per the rules of the University of Madras, an unapproved candidate cannot be permitted to sit for any examination. In such circumstances, we are in entire agreement with the conclusion of the learned single Judge and absolutely there is no ground for interference.

10. In addition to the above conclusion, it is also useful to mention that during the pendency of the above Writ Appeal, by order dated 22.04.2004, a Division Bench of this Court directed the petitioner/appellant to produce all the original records together with a representation requesting the Director of Technical Education to allot him a seat in any one of the Engineering Colleges to continue the course which he had already studied. In the same order, the Division Bench directed the Director of Technical Education to pass orders on the said representation on or before 28.04.2004. The Division Bench made it clear that if the Certificates are found to be genuine, the Director has to pass orders allotting a seat to the appellant in any one of the colleges. It is brought to our notice that pursuant to the said direction, the petitioner by name Abdul Khabeer produced the following original records in respect of the Diploma course in Electronics and Communication Engineering for verification along with a representation dated 26.04.2004 before the Director of Technical Education,

"1. Memorandum of Marks - I year - September 1995, Jan./Feb.1996, June 1996

2. Memorandum of Marks - II year - June 1996, Nov./Dec. 1997, April 1997 Oct./Nov.1997.

3. Memorandum of Marks - III year - Oct./Nov.1997

4. Provisional Certificate cum Consolidated Marks

5. Diploma Certificate. "

The above records have been perused by the Director of Technical Education and the following order has been passed:-

> " Thiru Abdul Khabeer has completed the Diploma course during November 1997 and has been placed in Second Class. He has secured an average of 56.4% in the III year. For admission to II year B.E. degree course under Lateral Entry scheme in Tamil Nadu, OC candidates have to secure a minimum aggregate of 60% in the final year Examination. Since Thiru Abdul Khabeer belongs to Andhra Pradesh, his admission could be considered under OC category only. In as much as he secured only 56.4%, it is

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not possible to accord approval for his admission and allot him a seat in any one of the Engineering college to continue the course which he has already studied. "

It is clear that he has not secured the minimum aggregate of 60% and secured only 56.4%. Hence, approval was not accorded for his admission and no seat was allotted to him in any one of the approved Engineering Colleges to continue the course, which he had already studied.

11. Though learned counsel for the petitioner relied on certain decisions of the Hon'ble Supreme Court, in view of the information furnished by the Director of Technical Education in the letter dated 28.4.2004, viz., he has not secured the minimum aggregate marks, we are of the view that it is unnecessary to refer those decisions.

12. Finally, learned counsel for the petitioner submitted that a direction may be issued to the first respondent for refund of the fees which the petitoner has paid at the time of admission. Inasmuch as it requires more adjudication, the same cannot be done in these proceedings. The petitioner is free to move the appropriate forum/court if the same is permissible under law.

13. With the above observation, the Writ Appeal is dismissed. No costs.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Controller of Examinations (i/c)
University of Madras,
University Buildings,
Chepauk, Chennai-5.

2 The Director,
Department of Technical Education,
Chennai-600 025.

+ One cc to Mr.K.V.AnanthaKrushnan, Advocate SR 16804

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